

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**PROFESSIONAL SALES AND)
MARKETING GROUP, INC.,)
v.)
Plaintiff,)
Case 1:07-cv-03951)
RENETTO, LLC,)
and)
SWIMWAYS CORPORATION,)
Defendants.)**

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INITIAL STATUS REPORT

Plaintiff Professional Sales and Marketing Group, Inc. ("PSM") hereby submits the following initial status report. Defendant Renetto, LLC ("Renetto"), and Defendant SwimWays Corporation ("SwimWays") were unable to agree with PSM to a joint report.

A. NATURE OF THE CASE

PSM initiated this litigation by filing a complaint in the Circuit Court of Cook County, Illinois on June 13, 2007. Renetto and SwimWays removed the action to this Court on July 13, 2007 on the basis of diversity jurisdiction under 28 U.S.C. § 1332(a)(2). On July 17, 2007, this Court dismissed the complaint *sua sponte*, without prejudice to the filing of an appropriate amended federal complaint. The Court also ordered the parties to fully exhaust all settlement possibilities and file a joint status report by August, 20, 2007.

On August 16, 2007, PSM filed its motion for leave to file its amended complaint. In its amended complaint, PSM alleges the following. PSM entered into a sales agreement with Renetto under which PSM was granted the exclusive right to manufacture and market a folding



camping chair with a canopy (the "Canopy Chair") that was designed by Renetto. Under the sales agreement, PSM was initially granted the right to market the Canopy Chair during the 2006 calendar year. By not terminating the sales agreement before the end of 2006 and by continuing to work with PSM during this year, Renetto has extended the sales agreement through the 2007 calendar year. PSM and Renetto also entered into joint venture with Renetto to jointly develop

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several new canopy chair designs (the "Related Chairs"), to be sold by PSM. Despite this, Renetto purported sold all rights to market the Canopy Chairs and Related Chairs to SwimWays. Renetto and SwimWays have since ordered PSM to stop marketing the Canopy Chairs. Further, SwimWays has publicly announced that it has all distribution rights to the Canopy Chairs.

In its amended petition, PSM brings (1) a breach of contract claim against Renetto seeking damages, (2) a breach of fiduciary duty claim against Renetto seeking damages, (3) a tortious interference with contract claim against SwimWays seeking damages, (4) a tortious interference with business expectancy claim against SwimWays seeking damages, (5) a claim seeking preliminary and permanent injunctive relief against SwimWays and Renetto, and (6) a declaratory judgment claim against them. This court has diversity jurisdiction over the amended petition under 28 U.S.C. § 1332(a)(2). Renetto states that it filed a complaint against PSM in the Eastern District of Virginia on August 9, 2007.

The major factual issues presented by the case will be whether by virtue of the dealings between them, Renetto owes certain obligations to PSM related to the Chairs, and whether SwimWays tortiously interfered with the relationship between PSM and Renetto. The major legal issues presented will be whether Renetto breached its agreement, whether Renetto and PSM formed a joint venture, whether SwimWays tortiously interfered with protectible rights, and whether the requested relief should issue.

B. DRAFT SCHEDULING ORDER

The parties submit the following draft scheduling order required by Fed. R. Civ. P. 16(b):

All motions to join other parties and to amend the pleadings shall be filed by April 30, 2008.

All dispositive motions shall be filed by June 15, 2008.

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All discovery shall be completed by April 1, 2008.

C. TRIAL STATUS

PSM has timely demanded a jury trial. The parties estimate that a trial will last five days.

D. CONSENT TO PROCEED BEFORE A MAGISTRATE JUDGE

PSM does not consent to proceeding before a Magistrate Judge for all proceedings including trial.

E. SETTLEMENT STATUS

The parties and their counsel have engaged in two substantive settlement negotiation sessions conducted over the telephone, the first having been conducted on July 9, 2007. In addition, there have been numerous communications among counsel to advance settlement negotiations based on the presentations made in the two aforesaid conferences. Despite these negotiations, the parties reached an impasse as of August 9, 2007.

Respectfully submitted,

POLSONELLI SHALTON FLANIGAN SUELTHAUS PC

By: /s/ John J. Curry

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CERTIFICATE OF SERVICE

I hereby certify that I sent notification of such filing on August 20, 2007, I electronically filed the foregoing Initial Status Report with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

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I hereby certify that on August 20, 2007, I sent notification by other means of such filing to the following:

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